

NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



HOUSE OF REPRESENTATIVES

H. B. No. 3559

Introduced by Senator Ralph G. Recto

AN ACT
CREATING THE PHILIPPINE AMUSEMENT AND GAMING COMMISSION
(PAGCOM), AUTHORIZING THE APPROPRIATION OF FUNDS THEREFOR,
AND FOR OTHER PURPOSES

EXPLANATORY NOTE

This bill seeks to separate the regulatory function of the Philippine Amusement and Gaming Corporation (PAGCOR) from its role as operator of gaming activities. These distinct functions should not be placed under one agency in order to maintain a separation of powers and uphold a system of checks and balances.

There should be a clear separation between the regulatory and proprietary activities of PAGCOR in order to achieve a level playing field with other private gaming corporations. The government also has no business running gambling facilities. Instead, the government should adopt the policy that its role should only be *steering* and not *rowing*. This means government should deal with coordination and control of gaming entities but should not get involved in direct gaming operations.

The delineation of functions will also allow the regulatory agency to focus on the supervision and monitoring of gaming operators to ensure that they comply with the established rules and regulations including compliance with the required remittance of government shares to the National Treasury.

Under the bill, the present PAGCOR is abolished while a Philippine Amusement and Gaming Commission (PAGCOM) is created which will discharge the function of regulating the gaming operations in the country.

The existing PAGCOR casinos shall be privatized by the Privatization and Management Office (PMO) and proceeds from such privatization shall be remitted to the National Treasury and shall form part of the General Fund to be available for expenditure upon authorization of Congress through the annual General Appropriations Act (GAA).

The gaming facilities shall focus on foreign tourists. A license shall be issued to gaming operators only in Local Government Units (LGUs) where the tourist arrivals as certified by the Department of Tourism are 100,000 foreign tourists per annum or more. Furthermore, to discourage locals from patronizing the casino, a minimum of Php 1,000 entrance fee shall be charged to residents.

The PAGCOM shall collect from casino operators five percent (5%) as gross revenue tax. Further, after such deduction, PAGCOM shall collect an additional twenty-five percent (25%) from the aggregate gross earnings, which shall be earmarked for the priority projects of the LGU hosting the gaming facility; the creation of a Trust Fund in the Department of Social Welfare and Development intended for the establishment and operation of rehabilitation centers for the treatment of addictions including compulsive gambling, drug dependency, and alcoholism, among others; and PAGCOM's administrative cost and other priority social services programs of the National Government. The 25% share of the National Government shall be reflected in the GAA as a Special Purpose Fund.

To ease the impact of the separation from government service, PAGCOR officials and employees who will opt not to be absorbed by the new PAGCOM will receive a Severance Mitigation Package (SMP) based on the recommendation of the Governance Commission for Government-Owned and -Controlled Corporations (GCG) and approval of the President.

The SMP benefits shall be on top of whatever separation and retirement benefit those officials and employees of the abolished PAGCOR may be entitled to under existing laws. However, once the SMP is availed of, they shall not be eligible for employment in the PAGCOM for the next five years from separation or retirement.

On the other hand, those officials and employees who will opt to stay with PAGCOM and will be able to get a regular plantilla position shall enjoy a compensation package that is exempted from the Salary Standardization Law and should approximate if not exceed what they have been receiving from the abolished PAGCOR subject to the approval of the President upon recommendation of the GCG.

This bill will ensure the effective operation of gaming corporations to provide the government with more funds for the implementation of priority programs. Hence, approval of this bill is earnestly sought.



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Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

Chapter I

GENERAL PROVISIONS

Section 1. *Short Title.* – This Act shall be known as the "*Philippine Amusement and Gaming Commission (PAGCOM) Act*".

Sec. 2. *Declaration of Policy.* – It is hereby declared the policy of the State to integrate a centralized and efficient regulatory service in the Philippines in the conduct of operation for all games of chance and other similar forms of amusement and recreation by providing for the creation of a Commission, in such a manner as to promote transparency, efficiency, and business viability within its jurisdiction. In the pursuit of this policy, this Act shall have the following objectives:

- (a) To delineate the operation of gaming activities, on one hand, and regulation, on the other;
- (b) To centralize and consolidate all forms of regulatory power, including licensing and enforcement, of gaming activities in one governmental entity to promote efficiency, transparency, and good governance;

- 1 (c) To place the operation of gaming activities in the hands of the private
2 sector by privatizing the current gaming operations of the Philippine
3 Amusement and Gaming Corporation (PAGCOR);
- 4 (d) To establish, regulate and issue a license to operate business activities of
5 all games of chance and such other similar forms of amusement and
6 recreation, within the territorial jurisdiction of the Philippines;
- 7 (e) To ensure that such businesses will generate sources of additional revenue
8 for the national government;
- 9 (f) To eradicate the evils, malpractices, and incidence of corruption that are
10 prevalent in the conduct and operation of gaming clubs and casinos which
11 operate in the absence of governmental supervision;
- 12 (g) To expand and improve the tourism industry; and
- 13 (h) To introduce additional safeguards in the regulation and operation of
14 gaming activities.

15 SEC. 3. *Definition of Terms.* – For purposes of this Act, the terms:

- 16 (a) *Commission* shall refer to the Philippine Amusement and Gaming
17 Commission created under Section 4 of this Act.
- 18 (b) *President* shall refer to the President of the Republic of the Philippines.
- 19 (c) *Philippine Amusement and Gaming Corporation (PAGCOR)* shall refer to
20 the Philippine Amusement and Gaming Corporation created under
21 Presidential Decree No. 1869, as amended by Republic Act No. 9487.
- 22 (d) *Privatization and Management Office (PMO)* shall refer to the Privatization
23 and Management Office organized under Chapter 4 of Executive Order No.
24 323 (S. 2000).

25 Chapter II

26 PHILIPPINE AMUSEMENT AND GAMING COMMISSION

27 THE COMMISSION

28 Sec. 4. *Creation.* – There is hereby created and established an independent,
29 quasi-judicial regulatory body to be named the Philippine Amusement and Gaming
30 Commission (PAGCOM), hereinafter referred to as the Commission. For this purpose,
31 the Commission shall be attached to the Office of the President for supervision and
32 control.

1 Sec. 5. *Powers and Functions.* - The Commission shall have the following
2 powers and functions:

3 (a) To provide comprehensive policy guidance for the promotion and
4 development of the Commission, as provided in this Act;

5 (b) To ensure that the Commission performs its functions in a proper,
6 efficient, and effective manner;

7 (c) To determine the organizational structure and staffing pattern of the
8 Commission in accordance with the provisions of this Act, subject to
9 existing Department of Budget and Management (DBM) and Civil Service
10 Commission (CSC) rules and regulations: *Provided, That* the PAGCOM
11 compensation plan including a performance incentive scheme for officials
12 and employees shall be exempted from the Salary Standardization Law but
13 subject to the recommendation of the DBM and approval of the President
14 of the Philippines;

15 (d) To decide on all matters relating to licenses, certificates, and permits for
16 the operation of gaming activities and prescribe the appropriate terms and
17 conditions thereof;

18 (e) To establish and maintain linkages with international gaming commissions,
19 associations or organizations of other countries, and international non-
20 governmental organizations whose main objective is regulation and
21 supervision of games of chance and other similar recreation and
22 amusement activities;

23 (f) To coordinate and cooperate with other government agencies and entities
24 concerned with any aspect involving the provisions of this Act;

25 (g) To prescribe rules of practice and procedures for its proceedings;

26 (h) To issue provisional remedies and interlocutory orders, including
27 preliminary injunction, whether prohibitory or mandatory, in all cases in
28 which it has jurisdiction, and in which cases the pertinent provisions of the
29 Rules of Court shall apply;

30 (i) To punish for contempt in accordance with the pertinent provisions of the
31 Rules of Court;

- 1 (j) To issue *subpoena duces tecum* and *ad testificandum* and summon
2 witnesses to appear in any proceedings of the Commission;
- 3 (k) To administer oaths and affirmations in the transaction and performance
4 of their official duties;
- 5 (l) To conduct investigations and hearings of complaints for violation of
6 gaming laws and of the Commission's rules and regulations, orders,
7 decisions and/or rulings and to impose fines and/or penalties for such
8 violations;
- 9 (m) To determine, prescribe, approve and periodically review and adjust
10 the manner and method of payment of fees, costs, and penalties to be
11 paid to or collected by the Commission;
- 12 (n) To formulate policies, directives, programs and projects, as well as the
13 rules and regulations and guidelines to implement the provisions of this
14 Act; and
- 15 (o) To exercise such other acts as are incidental to or are appropriate and
16 necessary in connection with the creation of the Commission.

17 *Sec. 6. Composition, Qualification and Tenure.* – The Commission shall be
18 headed by a Commissioner as Chairperson and four (4) Deputy Commissioners as
19 members, all of whom shall be appointed by the President for a term of three (3)
20 years and may be reappointed for another term unless removed for cause. They
21 must be citizens of the Philippines, of good moral character, holders of a college
22 degree and with at least five (5) years of actual and distinguished experience in their
23 respective fields.

24 The President, upon recommendation of the Commission, shall appoint an
25 Executive Director. The appointee must be a citizen of the Philippines and of good
26 moral character, holder of a college degree and with at least three (3) years of
27 actual and distinguished experience in their respective fields. The Executive Director
28 shall have the following powers and functions:

29 (a) Advise and assist the Commission in the formulation and
30 implementation of the objectives, policies, plans and programs of the
31 Commission;

32 (b) Direct and supervise officials and employees of the Commission;

- 1 (c) Prepare an annual report on the activities of the Commission at the
2 close of each fiscal year and submit a copy thereof to the President
3 and Congress;
4 (d) Keep and maintain official records and reports of the proceedings of
5 the Commission;
6 (e) Oversee all the operational activities of the Commission;
7 (f) Coordinate the programs and projects of the Commission and be
8 responsible for its economical, efficient and effective administration;
9 (g) Administer oaths in connection with all matters relating to the
10 business of the Commission; and
11 (h) Perform such other duties as may be assigned by the Commissioner.

12 Any appointment to fill the vacancy in the foregoing provision arising from
13 death, removal, retirement, or resignation shall be made only for the unexpired
14 term.

15 *Sec. 7. Meetings and Quorum.* – In all cases, the Commission shall convene
16 and act as a collegial body in all matters referred to in Section 5 of this Act. The
17 Commission shall meet at least once a month, or as determined by the Commission.
18 The presence of at least three (3) members shall constitute a quorum.

19 *Sec. 8. Decision and Appeal.* – In all cases or proceedings before the
20 Commission, the decision of the majority shall prevail. Decisions of the Commission
21 shall become final and executory fifteen (15) days from receipt thereof. Only one (1)
22 motion for reconsideration shall be filed with the Commission.

23 The decision, order, or resolution of the Commission shall be appealable to
24 the Office of the President within thirty (30) days from receipt. The decision of the
25 Office of the President shall be final and executory unless stayed by an order of the
26 Court of Appeals.

27 **CHAPTER III**

28 **LICENSING REGULATIONS**

29 *Sec. 9. Registration and Licensing of Gaming Operators.* – The Commission
30 shall register and issue the license, authority, privilege or permit to gaming
31 operators, subject to such rules, guidelines, procedures and other issuances as the
32 Commission may promulgate: *Provided*, That licenses shall be issued to gaming

1 operators only in municipalities and cities with tourist arrivals of one hundred
2 thousand (100,000) or more foreign tourists annually as certified by the
3 Department of Tourism (DOT) unless the gaming facility will be located in a new
4 entertainment resort facility and the DOT certifies as to the potential tourist
5 arrivals equivalent to or more than the required number: *Provided, further, That*
6 *the PAGCOM shall require gaming operators to collect an entrance fee of not less*
7 *than One thousand pesos (P1,000) for local players.*

8 The Commission shall also ensure that the granting and revocation of
9 licenses, authority, privileges or permits are carried out fairly, transparently, and
10 without discrimination.

11 Sec. 10. *Special Condition on License-Holders.* – After deducting the five
12 percent (5%) gross revenue tax, the Commission shall collect twenty-five percent
13 (25%) of the aggregate gross earnings of License-Holders, which shall be remitted
14 to the National Treasury: *Provided, That the equivalent amount shall be included in*
15 *the General Appropriations Act (GAA) as a Special Purpose Fund and shall be*
16 *earmarked for the following: the administrative cost of the Commission; the priority*
17 *projects of Local Government Units (LGUs) hosting the gaming facilities; the*
18 *Department of Social Welfare and Development (DSWD) intended for the*
19 *establishment and operation of rehabilitation centers; and other priority social*
20 *services programs of the National Government: Provided, further, That a Trust Fund*
21 *is hereby created in the DSWD for the operation of rehabilitation centers for all*
22 *forms of addiction including compulsive gambling, drug dependency and alcoholism.*

23 **CHAPTER IV**

24 **ABOLITION OF PAGCOR**

25 Sec. 11. *Abolition of the Philippine Amusement and Gaming Corporation*
26 *(PAGCOR).* – The PAGCOR, created under Presidential Decree No. 1869, as
27 amended by Republic Act No. 9487, is hereby abolished.

28 All powers, duties and rights vested by law and exercised by PAGCOR in the
29 performance of its regulatory powers, are hereby transferred to the Commission.

30 All assets, real and personal properties, except those that may be privatized
31 under Chapter V of this Act, including funds and revenues owned by or vested in
32 the different offices of PAGCOR are transferred to the Commission.

1 All contracts, records and documents relating to the powers and functions of
2 the abolished agency, its offices and branches are likewise transferred to the
3 Commission.

4 **CHAPTER V**

5 **PRIVATIZATION OF THE PHILIPPINE AMUSEMENT AND GAMING** 6 **CORPORATION (PAGCOR)**

7 Sec. 12. *Privatization of PAGCOR's Operations.* — All assets pertaining to
8 the operations of gaming activities of PAGCOR shall be privatized and disposed of in
9 accordance with this Act, and, as soon as practicable, the Commission on Audit
10 (COA), in coordination with PAGCOR, the Commission and the Privatization and
11 Management Office (PMO) shall conduct a complete accounting and inventory of
12 such assets to determine and ascertain their nature, description, amount and value,
13 as well as other rights and obligations pertaining thereto, if any.

14 Nothing herein shall be construed as preventing the PMO from causing the
15 appraisal by a third party of any of the assets prior to or in the course of preparing
16 the privatization or disposition plans for the said assets.

17 Sec. 13. *Additional Mandate of the PMO.* — In addition to its powers, duties
18 and functions under Executive Order No. 323 (s. 2000), as amended, the PMO shall,
19 for and in behalf of the National Government, take possession of, conserve,
20 provisionally manage, and dispose of the assets which have been identified for
21 privatization and disposition by the Commission.

22 In the discharge of its mandate under Executive Order No. 323 (s. 2000) and
23 this Section, the PMO is hereby empowered to implement a specific marketing and
24 disposition program for privatization and disposition; to execute and deliver, on
25 behalf of the National Government, deeds of sale, contracts, trust instruments, and
26 other legally operative documents as may be necessary or appropriate to convey
27 title to, take possession of, and conserve, such assets; to engage external expertise
28 as may be necessary for the fulfillment of its tasks under this Act; to adopt internal
29 rules and regulations in relation to the marketing and disposition of the assets; and
30 to submit periodic reports to the Commission on the status of the disposition
31 program.

1 Any and all sales and other modes of privatization or disposition or any form
2 of divestment or transmission of rights over these assets shall not be considered
3 final unless approved or ratified by the Commission.

4 Sec. 14. *Powers of the PMO.* — The PMO is hereby accorded discretionary
5 powers with regard to the preparation of the privatization plans and policies of the
6 assets transferred to it. The PMO is empowered to enter into sales through public
7 bidding, negotiated sale, lease, or any form of divestment or transmission of rights
8 over the assets: *Provided*, That operations of these assets or a partnership with the
9 private sector in the management or operation thereof prior to actual sale or
10 disposition shall remain with the Commission.

11 Sec. 15. *Commission to Determine Transfer Value.* — The Commission is
12 hereby vested with full and complete powers and prerogatives to determine the
13 indicative sale or transfer valuations of the assets identified for privatization or
14 disposition by the PMO, which valuations shall be based on COA's audit report or
15 listing as adverted to or those made by a reputable third-party appraisal firm:
16 *Provided*, That any valuations approved by the Commission shall not be deemed a
17 condonation, waiver, or extinguishment of any obligation by any third party to such
18 assets.

19 Sec. 16. *Reimbursement and Retention.* — In order to fulfill its additional
20 mandate under this section, the PMO shall be reimbursed for reasonable expenses
21 incurred in the management and disposition of these assets, subject to pertinent
22 laws, rules and regulations.

23 Sec. 17. *Remittance of Proceeds of Privatization.* — All proceeds or receipts
24 from the privatization, sale or disposition of the assets, except portions thereof for
25 operational expenses of the Commission, or such amount approved by the
26 Commission to be refunded to the PMO under the preceding section, shall be
27 remitted to the Bureau of Treasury (BTr).

28 Sec. 18. *Reporting Requirements.* — The Commission shall, on a semi-annual
29 basis, submit to the President and to Congress a report on the status of disposition
30 of the assets, which shall include, among others, a description of the individual
31 assets privatized and disposed of, their purchasers, the consideration received, and
32 the terms of payment as agreed upon.

1 **CHAPTER VI**

2 **SEPARATION AND RETIREMENT BENEFITS**

3 Sec. 19. *Separation and Retirement Benefits.* – Officials and employees of the
4 PAGCOR who choose to separate from government service or who shall choose to
5 retire, if eligible, shall be given a Severance Mitigation Package (SMP) in addition to
6 other separation and retirement benefits to which they may be entitled under
7 existing laws and regulations, and based on the recommendations of the
8 Governance Commission on Government-Owned and -Controlled Corporations (GCG)
9 created under Republic Act No. 10149 and approval of the President.

10 *Provided,* that no affected employee who opts to retire or separate from
11 service shall receive less than an aggregate amount of Two Hundred Thousand
12 Pesos (Php 200,000.00) as his retirement or separation benefit: *Provided, further,*
13 That those who availed of the benefits under the foregoing provisions shall not
14 qualify for re-employment to the Commission within five (5) years from the date of
15 retirement or separation from service.

16 **CHAPTER VII**

17 **FINAL PROVISIONS**

18 Sec. 20. *Funding.* – The budgetary requirements for the operation of the
19 Commission shall be charged against the income of the PAGCOM.

20 The cost of retirement and separation benefits of officers and employees of
21 the abolished PAGCOR shall be charged to the funds of the Corporation before its
22 privatization.

23 Sec. 21. *Auditor.* – The COA may appoint a representative who shall be the
24 Auditor of the Commission and such personnel as may be necessary to assist said
25 representative in the performance of his duties.

26 Sec. 22. *Interim Period.* – All incumbent officials and personnel of PAGCOR
27 whose positions are vital for the purposes for which this Act was created, shall
28 continue to discharge the functions of their positions until the Commission has been
29 organized.

30 Sec. 23. *Saving Clause.* – Unless otherwise provided in this Act, rights and
31 privileges vested or acquired under the provisions of Presidential Decree 1869, as

1 amended by Republic Act No. 9487, its nature and term of the franchise, prior to
2 the effectivity of this Act shall remain in full force and effect.

3 Sec. 24. *Implementing Rules and Regulations.* – Within ninety (90) days from
4 the date of effectivity of this Act, the Commission, the PMO, the Government Service
5 Insurance System (GSIS), the Social Security System (SSS), and the DBM, shall
6 formulate the rules and regulations for the proper implementation of this Act.

7 Sec. 25. *Separability Clause.* – If any part or provision of this Act shall be
8 declared unconstitutional, the other parts or provisions hereof which are not
9 affected thereby, shall continue to be in full force and effect.

10 Sec. 26. *Repealing Clause.* –

11 (a) Presidential Decree No. 1869, otherwise known as the PAGCOR Charter,
12 as amended by Republic Act No. 9487 is hereby repealed;

13 (b) All laws, executive issuances, orders and rules and regulations contrary
14 to or inconsistent with the provisions of this Act or any part thereof are
15 hereby repealed, amended or modified accordingly.

16 Notwithstanding the foregoing, nothing in this Act shall diminish the powers
17 and functions of agencies, relative to the operation and regulation of gaming
18 activities, provided under Republic Act Nos. 7922, 9490, 1169, as amended, and
19 Presidential Decree Nos. 420 and 810.

20 Sec. 27. *Effectivity.* – This Act shall take effect fifteen (15) days after its
21 complete publication in the *Official Gazette* or in two (2) newspapers of general
22 circulation.

Approved,